IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'OURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WA.No. 2640 of 2007

AGAINST THE JUDGEMENT IN WPC.25005/2007 Dated 28/09/2007

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APPELLANT: PETITIONER:

JOSEPH.A.G.,
S/O.LATE A.O.GEORGE,
AGED 40 YEARS, ASARIPARAMBIL, KATHRKADAVU,
THAMMANAM, PULLEPPADY ROAD,
KOCHI-17.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFEEK

RESPONDENTS: RESPONDENTS:

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1. THE JOINT REGISTRAR (GENERAL),
OFFICE OF JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
ERNAKULAM.

2. PEOPLES URBAN CO-OPERATIVE BANK LTD. NO.51
REP. BY ITS BRANCH MANAGER,
KATHRKADAVU.

3. SALE OFFICER,
PEOPLES URBAN CO-OPERATIVE BANK GROUP,
OFFICE OF ASST.REGISTRAR FOR CO-OPERATIVE SOCIETIES (GENERAL)
KANAYANNUR.

R2 BY ADV.SRI.T.A.RAJAN
R1 &R3 BY GOVERNMENT PLEADER SRI.M.P.SREEKRISHNAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07/11/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2640 of 2007

Dated this the 7th day of November, 2007.

J U D G M E N T

Sankaran, J.

The appellant herein, filed W.P.(C). No.25005 of 2007 challenging the revenue recovery proceedings initiated against him, for realisation of the amounts due to the second respondent Bank. The loan was sanctioned to the petitioner's father George and brother Varghese. Since the amounts were not paid, the Bank initiated steps under Section 69 of the Co-operative Societies Act and the Arbitrator fixed the amount payable by the petitioner. Since the amounts were not paid, revenue recovery proceedings were initiated.

(2). The contention put forward by the petitioner is that, the other legal representatives of his father should be proceeded against first, for realisation of the amount due. This contention was apparently not tenable. After having heard the learned counsel for the petitioner, the learned Single Judge thought that the petitioner could be granted 7 equal monthly instalments, to discharge the debt due to the Bank. Learned counsel for the appellant submits that, the petitioner is in impecunious circumstances and if the amount has to be paid in 7 equal monthly instalments, the result would be that, he would not be able to pay the amount and this would result in sale of his property. Learned counsel appearing for the Bank submits that, the Bank has no objection in granting the petitioner more instalments, so that he would be able to discharge the entire debt by paying Rs.30,000/- per month.

(3). In view of the submission made by the learned counsel on either side, we are of the view that the order passed by the learned Single Judge could be modified by permitting the appellant to pay Rs.30,000- (Rupees thirty thousand only) per month, to the second respondent Bank, till the entire liability is wiped off. If default is committed in paying any of the instalments, the Bank would be free to take appropriate proceedings including revival of the revenue recovery proceedings, for realisation of the entire balance amount due. The first instalment shall be paid on or before 15th December, 2007.

The Writ Appeal is disposed of as above.

(H.L.DATTU)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

MS